

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

RULE PROMULGATION ORDER 19-06

(Adding Super. Ct. Sm. Cl. R. 19 and Amending Super. Ct. Sm. Cl. R. 4)

WHEREAS, pursuant to D.C. Code § 11-946 (2012 Repl.), the Board of Judges of the Superior Court approved the addition of Superior Court Rule of Procedure for the Small Claims and Conciliation Branch 19 and a conforming amendment to Superior Court Rule of Procedure for the Small Claims and Conciliation Branch 4; and

WHEREAS, pursuant to D.C. Code § 11-1732(n) (2019 Supp.), the addition of and amendments to these rules, to the extent they relate to the utilization of magistrate judges, have been approved by the District of Columbia Court of Appeals; it is

ORDERED, that Superior Court Rules of Procedure for the Small Claims and Conciliation Branch 4 and 19 are hereby enacted and amended as set forth below; and it is further

ORDERED, that the new rule and the amendment shall take effect January 2, 2020, and shall govern all proceedings thereafter commenced and insofar is just and practicable all pending proceedings.

Rule 19. Collection and Subrogation Cases

(a) APPLICABILITY. This rule applies to all small claims actions in which the action is for:

- (1) collection of a liquidated debt involving:
 - (A) a credit card or credit account;
 - (B) a medical bill; or
 - (C) a loan or other financial obligation that a commercial entity seeks to collect or enforce; or
- (2) recovery as a subrogee-insurer.

(b) PARTICULAR PLEADING REQUIREMENTS.

(1) *Original Creditor.* If the plaintiff files a small claims action identified in Rule 19(a)(1)(A) and is not the original creditor, the statement of claim must include:

- (A) the identity of the original creditor; and
- (B) a statement that the plaintiff is the successor in interest.

(2) *Credit Card or Account.* If the plaintiff files a small claims action identified in Rule 19(a)(1)(A), the statement of claim must inform the defendant that an account statement is attached.

(3) *Prejudgment Interest.*

(A) *In General.* If the plaintiff's claim includes a claim for prejudgment interest, the statement of claim must include:

- (i) the prejudgment interest rate;
- (ii) the date from which the interest has run;
- (iii) the total dollar amount of prejudgment interest already accrued as of a date specified by the plaintiff and not more than 30 days prior to the filing of the action; and
- (iv) if applicable, a statement that the amount of prejudgment interest is only good through the stated date and that the amount will increase after that date as interest continues to accrue.

(B) *Closed or Charged-Off Account.* In actions based on accounts described in Rule 19(a)(1) that have been closed or charged off, the term "prejudgment interest" refers only to interest added or charged to the account after the account closing or charge-off.

(c) TIME ALLOWED FOR SERVICE OF PROCESS. As required by Rule 4(m)(1), proof of service of the materials required by Rule 4(a) must be made no later than 90 days after the filing of the statement of the claim. Failure to comply with the requirements of this rule will result in the dismissal without prejudice of the statement of claim. The clerk will enter the dismissal and serve notice on the parties.

(d) EXTENSION OF TIME FOR SERVICE OF PROCESS. Notwithstanding the provisions of Civil Rule 6(b), the time allowed for service of process of statements of claim covered by this rule will not be extended unless a motion for extension of time is filed within 90 days after the filing of the statement of claim. The motion must state in detail the efforts that have been made, and will be made in the future, to obtain service. If the plaintiff shows exceptional circumstances requiring an extension, the court must extend the time for an appropriate period.

(e) PLAINTIFF'S CONSENT TO MAGISTRATE JUDGE CALENDAR. When filing a statement of claim covered by this rule, the plaintiff may file a written consent to have the statement of claim assigned to a magistrate judge calendar. If such consent is filed,

the magistrate judge may rule on any motion, and take any other judicial action (including conducting ex parte proof of damage hearings), as to any defendant who has not appeared or otherwise responded to the statement of claim.

COMMENT TO 2019 AMENDMENTS

This rule is new; it establishes specific processes and procedures for small claims actions identified in section (a). As used in this rule, “charge off” means the act of a creditor that treats an account receivable or other debt as a loss or expense because payment is unlikely.

Rule 4. Service of Process

(m) TIME LIMIT FOR PROOF OF SERVICE.

(1) *In General.* Within 60 days of the filing of the statement of the claim, or within 90 days in ~~actions seeking collection of a liquidated debt or recovery by a subrogee~~debt collection and subrogation cases identified in Rule 19(a), proof of service of the materials required by Rule 4(a) must be filed. A separate proof must be filed as to each defendant who has been served with those materials.

COMMENT TO 2019 AMENDMENTS

Subsection (m)(1) was updated to include a reference to new Rule 19, which identifies debt collection and subrogation cases subject to the 90-day time limit for proof of service.

Rule 19. Collection and Subrogation Cases

(a) **APPLICABILITY.** This rule applies to all small claims actions in which the action is for:

- (1) collection of a liquidated debt involving:
 - (A) a credit card or credit account;
 - (B) a medical bill; or
 - (C) a loan or other financial obligation that a commercial entity seeks to collect or enforce; or
- (2) recovery as a subrogee-insurer.

(b) **PARTICULAR PLEADING REQUIREMENTS.**

(1) *Original Creditor.* If the plaintiff files a small claims action identified in Rule 19(a)(1)(A) and is not the original creditor, the statement of claim must include:

- (A) the identity of the original creditor; and
- (B) a statement that the plaintiff is the successor in interest.

(2) *Credit Card or Account.* If the plaintiff files a small claims action identified in Rule 19(a)(1)(A), the statement of claim must inform the defendant that an account statement is attached.

(3) *Prejudgment Interest.*

(A) *In General.* If the plaintiff's claim includes a claim for prejudgment interest, the statement of claim must include:

- (i) the prejudgment interest rate;
- (ii) the date from which the interest has run;
- (iii) the total dollar amount of prejudgment interest already accrued as of a date specified by the plaintiff and not more than 30 days prior to the filing of the action; and
- (iv) if applicable, a statement that the amount of prejudgment interest is only good through the stated date and that the amount will increase after that date as interest continues to accrue.

(B) *Closed or Charged-Off Account.* In actions based on accounts described in Rule 19(a)(1) that have been closed or charged off, the term "prejudgment interest" refers only to interest added or charged to the account after the account closing or charge-off.

(c) **TIME ALLOWED FOR SERVICE OF PROCESS.** As required by Rule 4(m)(1), proof of service of the materials required by Rule 4(a) must be made no later than 90 days after the filing of the statement of the claim. Failure to comply with the requirements of this rule will result in the dismissal without prejudice of the statement of claim. The clerk will enter the dismissal and serve notice on the parties.

(d) **EXTENSION OF TIME FOR SERVICE OF PROCESS.** Notwithstanding the provisions of Civil Rule 6(b), the time allowed for service of process of statements of claim covered by this rule will not be extended unless a motion for extension of time is filed within 90 days after the filing of the statement of claim. The motion must state in detail the efforts that have been made, and will be made in the future, to obtain service. If the plaintiff shows exceptional circumstances requiring an extension, the court must extend the time for an appropriate period.

(e) **PLAINTIFF'S CONSENT TO MAGISTRATE JUDGE CALENDAR.** When filing a statement of claim covered by this rule, the plaintiff may file a written consent to have the statement of claim assigned to a magistrate judge calendar. If such consent is filed,

the magistrate judge may rule on any motion, and take any other judicial action (including conducting ex parte proof of damage hearings), as to any defendant who has not appeared or otherwise responded to the statement of claim.

COMMENT TO 2019 AMENDMENTS

This rule is new; it establishes specific processes and procedures for small claims actions identified in section (a). As used in this rule, “charge off” means the act of a creditor that treats an account receivable or other debt as a loss or expense because payment is unlikely.

Rule 4. Service of Process

(m) TIME LIMIT FOR PROOF OF SERVICE.

(1) *In General.* Within 60 days of the filing of the statement of the claim, or within 90 days in debt collection and subrogation cases identified in Rule 19(a), proof of service of the materials required by Rule 4(a) must be filed. A separate proof must be filed as to each defendant who has been served with those materials.

COMMENT TO 2019 AMENDMENTS

Subsection (m)(1) was updated to include a reference to new Rule 19, which identifies debt collection and subrogation cases subject to the 90-day time limit for proof of service.

* * *

By the Court:

Date: 11/26/19



Robert E. Morin
Chief Judge

Copies to:

- All Judges
- All Magistrate Judges
- All Senior Judges
- Pamela Hunter, Acting Director, Civil Division
- Library
- Daily Washington Law Reporter
- Laura Wait, Associate General Counsel